



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

MARK R BRINKER

Respondent Name

TRAVELERS INDEMNITY COMPANY

MFDR Tracking Number

M4-10-2977-01

Carrier's Austin Representative

Box Number 5

MFDR Date Received

February 24, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "not paid according to the fee schedule."

Amount in Dispute: \$24.84

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Carrier has reviewed the reimbursement calculations, and confirmed the provider was properly reimbursed under the terms of the contract."

Response Submitted by: Travelers

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 6, 2009	Evaluation and Management Code 99213	\$24.84	\$24.84

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.4 provides for written notification to health care providers of contractual agreements for informal and voluntary networks.
3. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - Z024- 45 - CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT. THE DIFFERENCE BETWEEN THE FEE SCHEDULE AMOUNT AND THE AMOUNT PAID IS YOUR PPO DISCOUNT.
 - AFFL - 45 - CHARGE EXCEEDS FEE SCH/MAX ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT. THIS BILL HAS BEEN REVIEWED/REPRICED IN ACCORDANCE WITH FEE FOR SVC CONTRACT WITH FIRST HEALTH. ANY QUESTIONS, VISIT WEBSITE AT WWW.FIRSTHEALTH.COM.

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the recommended payment amount for the services in dispute?
3. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced payment for disputed services with reason codes AFFL – "45 - CHARGE EXCEEDS FEE SCH/MAX ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT. THIS BILL HAS BEEN REVIEWED/REPRICED IN ACCORDANCE WITH FEE FOR SVC CONTRACT WITH FIRST HEALTH. ANY QUESTIONS, VISIT WEBSITE AT WWW.FIRSTHEALTH.COM."; and Z024– "45 - CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT. THE DIFFERENCE BETWEEN THE FEE SCHEDULE AMOUNT AND THE AMOUNT PAID IS YOUR PPO DISCOUNT." Review of the submitted information found insufficient documentation to support that the disputed services are subject to a contracted fee arrangement between the parties to this dispute. Nevertheless, on October 4, 2010, the Division requested the respondent to provide documentation to support the contractual payment adjustments in accordance with Labor Code Sec. 413.011(d-3) and (d-1)(2), as well as 28 Texas Administrative Code §133.4.

Labor Code Sec. 413.011(d-1) requires that:

If a carrier or the carrier's authorized agent chooses to use an informal or voluntary network to obtain a contractual fee arrangement, there must be a contractual arrangement between:

- (1) the carrier or authorized agent and the informal or voluntary network that authorizes the network to contract with health care providers on the carrier's behalf; and
- (2) the informal or voluntary network and the health care provider that includes a specific fee schedule and complies with the notice requirements established under Subsection (d-2).

Labor Code Sec. 413.011(d-2) requires that

"An informal or voluntary network, or the carrier or the carrier's authorized agent, as appropriate, shall notify each health care provider of any person that is given access to the network's fee arrangements with that health care provider within the time and according to the manner provided by commissioner rule."

Labor Code Sec. 413.011(d-3) states, in pertinent part, that:

An insurance carrier shall provide copies of each contract described by Subsection (d-1) to the division on the request of the division. . . . Notwithstanding Subsection (d-1) or Section 1305.153, Insurance Code, the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract: . . .

(3) does not:

- (A) clearly state that the contractual fee arrangement is between the health care provider and the named insurance carrier or the named insurance carrier's authorized agent; or
- (B) comply with the notice requirements under Subsection (d-2).

28 Texas Administrative Code §133.4(c) further requires that:

Required Notice. Each informal network or voluntary network, or the insurance carrier, or the insurance carrier's authorized agent, as appropriate, shall notify each affected health care provider of any person that is given access to the informal or voluntary network's fee arrangement with that health care provider within the time and manner provided by this section.

28 Texas Administrative Code §133.4(g) states that:

The insurance carrier is not entitled to pay a health care provider at a contracted fee negotiated by an informal network or voluntary network if:

- (1) the notice to the health care provider does not meet the requirements of Labor Code §413.011 and this section; or
- (2) there are no required contracts in accordance with Labor Code §413.011(d-1) and §413.0115.

Review of the submitted information finds no documentation to support a contractual arrangement between the carrier or authorized agent and the alleged informal or voluntary network that authorizes the network to contract with health care providers on the carrier's (Travelers') behalf in accordance with Subsection (d-1)(1). No documentation was found to support notice to the health care provider that Travelers had been given access to the network's fee arrangements with the health care provider in accordance with Labor Code 413.011(d), Subsections (d-2), (d-1)(2), and (d-3)(3)(B), or 28 Texas Administrative Code §133.4. Review of the submitted information finds no documentation that clearly states that the contractual fee arrangement is between the health care provider and the named insurance carrier (Travelers) or the named insurance carrier's

authorized agent in accordance with Subsection (d-3)(3)(A). The Division therefore finds that the insurance carrier's payment reduction reason is not supported. Consequently, the Division concludes that the insurance carrier is not entitled to pay the health care provider at a contracted fee negotiated by an informal network or voluntary network and may not pay fees that are inconsistent with the Division's fee guidelines. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.

2. This dispute relates to professional medical services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.203(c), which requires that:

To determine the MAR [Maximum Allowable Reimbursement] for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83 . . .

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year."

The applicable Division conversion factor for calendar year 2009 is \$53.68. Reimbursement is calculated as follows:

- Procedure code 99213, date of service July 6, 2009, performed in Houston Texas, has a Medicare payment rate of \$61.84. This amount divided by the Medicare conversion factor of 36.0666 and multiplied by the Division's conversion factor of \$53.68, results in a MAR of \$92.04.

3. The total recommended payment for the services in dispute is \$92.04. This amount less the amount previously paid by the insurance carrier of \$67.20 leaves an amount due to the requestor of \$24.84. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$24.84.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$24.84 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

_____	<u>Grayson Richardson</u>	<u>October 17, 2014</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.